

**ASSEMBLY BILL**

**No. 1968**

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**Introduced by Assembly Member Niello**

February 17, 2010

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An act to amend Sections 336, 342, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9009, 9034, 9035, 9050, 9051, 9053, 9054, 9063, 9086, 13247, 13262, 13282, and 18602 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as introduced, Niello. Elections: ballot titles.

Existing law requires the Attorney General, upon receipt of a draft of a petition for a proposed initiative or referendum, to prepare a title and summary of the proposed measure. Under existing law, the Attorney General is required to determine the effect of a proposed initiative measure on revenues and expenditures of the state or local government. If the Attorney General determines that a proposed measure would affect state or local revenues or expenditures, he or she must include in the title either the estimate of the amount of change in state or local revenues or costs or an opinion as to whether a substantial net change in state or local finances would result if the proposed initiative is adopted. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to prepare jointly the fiscal estimate that is included in the title.

This bill would require the Legislative Analyst, instead of the Attorney General, to prepare the ballot title and summary for all measures submitted to the voters of the state and would require the Legislative Analyst, instead of the Department of Finance and the Joint Legislative

Budget Committee, to prepare any fiscal estimate or opinion required by a proposed initiative measure.

The bill would make its operation contingent upon the approval by the voters of ACA 20 of the 2009–10 Regular Session.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 336 of the Elections Code is amended to  
2 read:

3 336. The “official summary date” is the date a circulating title  
4 and summary of a proposed initiative measure is delivered or  
5 mailed by the ~~Attorney General~~ *Legislative Analyst* to the  
6 proponents of the proposed measure.

7 SEC. 2. Section 342 of the Elections Code is amended to read:

8 342. “Proponent or proponents of an initiative or referendum  
9 measure” means, for statewide initiative and referendum measures,  
10 the elector or electors who submit the text of a proposed initiative  
11 or referendum to the ~~Attorney General~~ *Legislative Analyst* with a  
12 request that he or she prepare a circulating title and summary of  
13 the chief purpose and points of the proposed measure; or for other  
14 initiative and referendum measures, the person or persons who  
15 publish a notice or intention to circulate petitions, or, ~~where if~~  
16 publication is not required, who file petitions with the elections  
17 official or legislative body.

18 SEC. 3. Section 9001 of the Elections Code is amended to read:

19 9001. (a) Prior to the circulation of ~~any~~ *an* initiative or  
20 referendum petition for signatures, the text of the proposed measure  
21 shall be submitted to the ~~Attorney General~~ *Legislative Analyst*  
22 with a written request that a circulating title and summary of the  
23 chief purpose and points of the proposed measure be prepared.  
24 The electors presenting the request shall be known as the  
25 “proponents.” The ~~Attorney General~~ *Legislative Analyst* shall  
26 preserve the written request until after the next general election.

27 (b) Each and every proponent of any proposed initiative measure  
28 shall, at the time of submitting the text of the proposed measure,  
29 provide both of the following:

30 (1) An original signed certification stating that “I, (insert name),  
31 declare under penalty of perjury that I am a citizen of the United

1 States, 18 years of age or older, and a resident of (insert county),  
2 California.”

3 (2) Public contact information.

4 (c) The proponents of any initiative measure, at the time of  
5 submitting the text of the proposed measure to the ~~Attorney General~~  
6 *Legislative Analyst*, shall pay a fee of two hundred dollars (\$200),  
7 which shall be placed in a trust fund in the office of the Treasurer  
8 and refunded to the proponents if the measure qualifies for the  
9 ballot within two years from the date the summary is furnished to  
10 the proponents. If the measure does not qualify within that period,  
11 the fee shall be immediately paid into the General Fund of the  
12 state.

13 (d) All referenda and proposed initiative measures must be  
14 submitted to the ~~Attorney General's~~ *Legislative Analyst's* Initiative  
15 Coordinator located in the Sacramento ~~Attorney General's~~  
16 *Legislative Analyst's* Office via ~~U.S. United States~~ Postal Service,  
17 alternative mail service, or personal delivery. Only printed  
18 documents will be accepted; facsimile or e-mail delivery will not  
19 be accepted.

20 (e) The ~~Attorney General's~~ *Legislative Analyst's* office shall  
21 not deem a request for a circulating title and summary submitted  
22 until all of the requirements of this section are met.

23 SEC. 4. Section 9002 of the Elections Code is amended to read:

24 9002. (a) The ~~Attorney General~~ *Legislative Analyst* shall  
25 provide a copy of the title and summary to the Secretary of State  
26 within 15 days after receipt of the final version of a proposed  
27 initiative measure, or, if a fiscal estimate or opinion is to be  
28 included, within 15 days after receipt of the fiscal estimate or  
29 opinion prepared by the Department of Finance and the Joint  
30 Legislative Budget Committee pursuant to Section 9005. If during  
31 the 15-day period the proponents of the proposed initiative measure  
32 submit amendments, other than technical, nonsubstantive  
33 amendments, to the final version of the measure, the ~~Attorney~~  
34 ~~General~~ *Legislative Analyst* shall provide a copy of the title and  
35 summary to the Secretary of State within 15 days after receipt of  
36 the amendments.

37 (b) The amendment must be submitted with a signed request  
38 by all the proponents to prepare a circulating title and summary  
39 using the amended language.

1 (c) The amendment must be submitted to the ~~Attorney General's~~  
2 *Legislative Analyst's* Initiative Coordinator located in the  
3 ~~Sacramento Attorney General's Legislative Analyst's~~ Office via  
4 U.S. *United States* Postal Service, alternative mail service or  
5 personal delivery. Only printed documents will be accepted;;  
6 facsimile or e-mail delivery will not be accepted.

7 SEC. 5. Section 9003 of the Elections Code is amended to read:

8 9003. ~~In the event that the Attorney General~~ *If the Legislative*  
9 *Analyst* is a proponent of a proposed measure, the circulating title  
10 and summary of the chief purpose and points of the proposed  
11 measure, including an estimate or opinion on the financial impact  
12 of the measure, shall be prepared by the Legislative Counsel, and  
13 the other duties of the ~~Attorney General~~ *Legislative Analyst*  
14 specified in this chapter with respect to the circulating title and  
15 ballot title and summary and an estimate of the financial effect of  
16 the measure shall be performed by the Legislative Counsel.

17 SEC. 6. Section 9004 of the Elections Code is amended to read:

18 9004. (a) Upon receipt of the text of a proposed initiative  
19 measure, the ~~Attorney General~~ *Legislative Analyst* shall prepare  
20 a circulating title and summary of the chief purposes and points  
21 of the proposed measure. The circulating title and summary shall  
22 not exceed a total of 100 words. The ~~Attorney General~~ *Legislative*  
23 *Analyst* shall also provide a unique numeric identifier for each  
24 proposed initiative measure. The circulating title and summary  
25 shall be prepared in the manner provided for the preparation of  
26 ballot titles and summaries in Article 5 (commencing with Section  
27 9050), the provisions of which, in regard to the preparation, filing,  
28 and settlement of ballot titles and summaries, are hereby made  
29 applicable to the circulating title and summary.

30 (b) The ~~Attorney General~~ *Legislative Analyst* shall provide a  
31 copy of the circulating title and summary and its unique numeric  
32 identifier to the proponents and to the Secretary of State within 15  
33 days after receipt of the *final version of a proposed initiative*  
34 *measure, or if a fiscal estimate or opinion is to be included, within*  
35 *15 days after determining that a fiscal estimate or opinion is*  
36 *required* pursuant to Section 9005. The date the copy is delivered  
37 or mailed to the proponents is the "official summary date."

38 (c) Upon receipt of the circulating title and summary from the  
39 ~~Attorney General~~ *Legislative Analyst*, the Secretary of State shall,  
40 within one business day, notify the proponents and county elections

1 official of each county of the official summary date and provide  
2 a copy of the circulating title and summary to each county elections  
3 official. This notification shall also include a complete schedule  
4 showing the maximum filing deadline, and the certification  
5 deadline by the counties to the Secretary of State.

6 SEC. 7. Section 9005 of the Elections Code is amended to read:

7 9005. (a) ~~The Attorney General~~ *Legislative Analyst*, in  
8 preparing a circulating title and summary for a proposed initiative  
9 measure, shall, in boldface print, include in the circulating title  
10 and summary either the estimate of the amount of any increase or  
11 decrease in revenues or costs to the state or local government, or  
12 an opinion as to whether or not a substantial net change in state or  
13 local finances would result if the proposed initiative is adopted.

14 ~~(b) The estimate as required by this section shall be made jointly~~  
15 ~~by the Department of Finance and the Joint Legislative Budget~~  
16 ~~Committee, who shall deliver the estimate to the Attorney General~~  
17 ~~so that he or she may include the estimate in the circulating title~~  
18 ~~and summary prepared by him or her.~~

19 (c) ~~The estimate shall be delivered to the Attorney General~~  
20 ~~completed by the Legislative Analyst within 25 working 15 days~~  
21 ~~from the date of receipt of the final version of the proposed~~  
22 ~~initiative measure from the Attorney General determining that the~~  
23 ~~estimate is required, unless, in the opinion of both the Department~~  
24 ~~of Finance and the Joint Legislative Budget Committee the~~  
25 ~~Legislative Analyst, a reasonable estimate of the net impact of the~~  
26 ~~proposed initiative measure cannot be prepared within the 25-day~~  
27 ~~15-day period. In the latter case, the Department of Finance and~~  
28 ~~the Joint Legislative Budget Committee Legislative Analyst shall,~~  
29 ~~within the 25-day 15-day period, give the Attorney General their~~  
30 ~~his or her opinion as to whether or not a substantial net change in~~  
31 ~~state or local finances would result if the proposed initiative~~  
32 ~~measure is adopted.~~

33 ~~(d) A statement of fiscal impact prepared by the Legislative~~  
34 ~~Analyst pursuant to subdivision (b) of Section 12172 of the~~  
35 ~~Government Code may be used by the Department of Finance and~~  
36 ~~the Joint Legislative Budget Committee in the preparation of the~~  
37 ~~fiscal estimate or the opinion.~~

38 SEC. 8. Section 9006 of the Elections Code is amended to read:

39 9006. (a) Upon receipt of the text of a proposed referendum,  
40 ~~the Attorney General~~ *Legislative Analyst* shall prepare a circulating

1 title and summary of the chief purpose and points of the proposed  
2 statute at issue. The circulating title and summary shall not exceed  
3 a total of 100 words. No fiscal analysis shall be included.

4 (b) The ~~Attorney General~~ *Legislative Analyst* shall provide a  
5 copy of the circulating title and summary of the proposed  
6 referendum to the proponents and to the Secretary of State within  
7 10 days after receipt of the proposed referendum.

8 (c) Upon receipt of the circulating title and summary from the  
9 ~~Attorney General~~ *Legislative Analyst*, the Secretary of State shall,  
10 within one business day, notify the proponents and county elections  
11 official of each county of the official summary date and provide  
12 a copy of the circulating title and summary to each county elections  
13 official. This notification shall also include a complete schedule  
14 showing the maximum filing deadline, and the certification  
15 deadline by the counties to the Secretary of State.

16 SEC. 9. Section 9007 of the Elections Code is amended to read:

17 9007. Immediately upon the preparation of the circulating title  
18 and summary of a proposed initiative or referendum measure, the  
19 ~~Attorney General~~ *Legislative Analyst* shall forthwith transmit  
20 copies of the text of the measure and the circulating title and  
21 summary to the Senate and the Assembly. The appropriate  
22 committees of each house may hold public hearings on the subject  
23 of the measure. However, nothing in this section shall be construed  
24 as authority for the Legislature to alter the measure or prevent it  
25 from appearing on the ballot.

26 SEC. 10. Section 9008 of the Elections Code is amended to  
27 read:

28 9008. Every proposed initiative measure, prior to circulation,  
29 shall have placed across the top of the petition in 12-point or larger  
30 roman boldface type, all of the following:

31 (a) The ~~Attorney General~~ *Legislative Analyst*'s unique numeric  
32 identifier placed before the circulating title and summary upon  
33 each page where the circulating title and summary is to appear.

34 (b) The circulating title and summary prepared by the ~~Attorney~~  
35 ~~General~~ *Legislative Analyst* upon each page of the petition on  
36 which signatures are to appear.

37 (c) The circulating title and summary prepared by the ~~Attorney~~  
38 ~~General~~ *Legislative Analyst* upon each section of the petition  
39 preceding the text of the measure.

(d) The circulating title and summary prepared by the ~~Attorney General~~ *Legislative Analyst* as required by subdivision (c) shall be preceded by the following statement: "Initiative measure to be submitted directly to the voters."

SEC. 11. Section 9009 of the Elections Code is amended to read:

9009. The heading of an initiative petition shall be in substantially the following form:

Initiative Measure to Be Submitted Directly to the Voters

The ~~Attorney General~~ *Legislative Analyst* of California has prepared the following circulating title and summary of the chief purpose and points of the proposed measure:

(Here set forth the unique numeric identifier provided by the ~~Attorney General~~ *Legislative Analyst* and circulating title and summary prepared by the ~~Attorney General~~ *Legislative Analyst*. Both the ~~Attorney General's~~ *Legislative Analyst's* unique numeric identifier and the circulating title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

To the Honorable Secretary of State of California

We, the undersigned, registered, qualified voters of California, residents of \_\_\_\_ County (or City and County), hereby propose amendments to the Constitution of California (the \_\_\_\_ Code, relating to \_\_\_\_ ) and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or as otherwise provided by law. The proposed constitutional (or statutory) amendments (full title and text of the measure) read as follows:

SEC. 12. Section 9034 of the Elections Code is amended to read:

9034. Upon the certification of an initiative measure for the ballot, the Secretary of State shall transmit copies of the initiative measure, together with the circulating title and summary as prepared by the ~~Attorney General~~ *Legislative Analyst* pursuant to Section 9004, to the Senate and the Assembly. Each house shall assign the initiative measure to its appropriate committees. The appropriate committees shall hold joint public hearings on the subject of ~~such~~ *the* measure prior to the date of the election at

1 which the measure is to be voted upon. However, no hearing may  
2 be held within 30 days prior to the date of the election.

3 Nothing in this section shall be construed as authority for the  
4 Legislature to alter the initiative measure or prevent it from  
5 appearing on the ballot.

6 SEC. 13. Section 9035 of the Elections Code is amended to  
7 read:

8 9035. An initiative measure may be proposed by presenting to  
9 the Secretary of State a petition that sets forth the text of the  
10 proposed statute or amendment to the Constitution and is certified  
11 to have been signed by registered voters equal in number to 5  
12 percent in the case of a statute, and 8 percent in the case of an  
13 amendment to the *California* Constitution, of the voters for all  
14 candidates for Governor at the last gubernatorial election preceding  
15 the issuance of the circulating title and summary for the initiative  
16 measure by the ~~Attorney General~~ *Legislative Analyst*.

17 SEC. 14. Section 9050 of the Elections Code is amended to  
18 read:

19 9050. After the Secretary of State determines that a measure  
20 will appear on the ballot at the next statewide election, the  
21 Secretary of State shall promptly transmit a copy of the measure  
22 to the ~~Attorney General~~ *Legislative Analyst*. The ~~Attorney General~~  
23 *Legislative Analyst* shall provide and return to the Secretary of  
24 State a ballot title and summary and ballot label for ~~each~~ *a* measure  
25 submitted to the voters of the whole state by a date sufficient to  
26 meet the ballot pamphlet public display deadlines.

27 SEC. 15. Section 9051 of the Elections Code is amended to  
28 read:

29 9051. (a) (1) The ballot title and summary may differ from  
30 the legislative, circulating, or other title and summary of the  
31 measure and shall not exceed 100 words, not including the fiscal  
32 impact.

33 (2) The ballot title and summary shall be amended to include a  
34 summary of the Legislative Analyst's estimate of the net state and  
35 local government fiscal impact prepared pursuant to Section 9087;  
36 *of this code* and Section 88003 of the Government Code.

37 (b) The ballot label shall contain no more than 75 words and  
38 shall be a condensed version of the ballot title and summary  
39 including the financial impact summary prepared pursuant to



1 Section 9087 of *this code* and Section 88003 of the Government  
2 Code.

3 (c) In providing the ballot title and summary, the ~~Attorney~~  
4 ~~General~~ *Legislative Analyst* shall give a true and impartial  
5 statement of the purpose of the measure in such language that the  
6 ballot title and summary shall neither be an argument, nor be likely  
7 to create prejudice, for or against the proposed measure.

8 SEC. 16. Section 9053 of the Elections Code is amended to  
9 read:

10 9053. ~~Each~~ A measure shall be designated on the ballot by the  
11 ballot label certified to the Secretary of State by the ~~Attorney~~  
12 ~~General~~ *Legislative Analyst*.

13 SEC. 17. Section 9054 of the Elections Code is amended to  
14 read:

15 9054. (a) Whenever a city, county, or city and county is  
16 required by Section 203 (42 U.S.C. Sec. 1973aa-1a) or Section  
17 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4)) of the federal Voting Rights  
18 Act of 1965 to provide a translation of ballot materials in a  
19 language other than English, the Secretary of State shall provide  
20 a translation of the ballot title and summary prepared pursuant to  
21 Sections 9050 and 9051 and of the ballot label prepared pursuant  
22 to Section 13247 in that language to the city, county, or city and  
23 county for ~~each~~ a state measure submitted to the voters in a  
24 statewide election not later than 68 days prior to that election.

25 (b) When preparing a translation in a language other than  
26 English pursuant to subdivision (a), the Secretary of State shall  
27 consult with an advisory body consisting of language experts and  
28 nonpartisan organizations that advocate on behalf of, or provide  
29 services to, individuals that speak that language.

30 (c) ~~All translations~~ *Translations* prepared pursuant to this section  
31 shall be made available for public examination in the same time  
32 and manner as the ballot pamphlet is made available for public  
33 examination in accordance with Section 88006 of the Government  
34 Code and Section 9092 of this code.

35 (d) The local elections official shall use ~~that~~ *the* translation of  
36 the ballot label *prepared pursuant to this section* on the sample  
37 ballot and the official ballot and may not select or contract with  
38 another person to provide translations of the same text.

39 SEC. 18. Section 9063 of the Elections Code is amended to  
40 read:

1 9063. The summary of a measure given in the press release  
2 shall be the official circulating title and summary that has been  
3 prepared by the ~~Attorney General~~ *Legislative Analyst*. The  
4 Legislative Counsel Bureau shall prepare the summary on all other  
5 measures.

6 SEC. 19. Section 9086 of the Elections Code is amended to  
7 read:

8 9086. The ballot pamphlet shall contain as to each state measure  
9 to be voted upon, the following, in the order set forth in this  
10 section:

11 (a) Upon the top portion of the first page, and not exceeding  
12 one-third of the page, shall appear:

13 (1) Identification of the measure by number and title.

14 (2) The official summary prepared by the ~~Attorney General~~  
15 *Legislative Analyst*.

16 (3) The total number of votes cast for and against the measure  
17 in both the State Senate and Assembly, if the measure was passed  
18 by the Legislature.

19 (b) Beginning at the top of the right page shall appear the  
20 analysis prepared by the Legislative Analyst, provided that the  
21 analysis fits on a single page. If it does not fit on a single page,  
22 the analysis shall begin on the lower portion of the first left page  
23 and shall continue on subsequent pages until it is completed.

24 (c) Arguments for and against the measure shall be placed on  
25 the next left and right pages, respectively, following the final page  
26 of the analysis of the Legislative Analyst. The rebuttals shall be  
27 placed immediately below the arguments.

28 (d) If no argument against the measure has been submitted, the  
29 argument for the measure shall appear on the right page facing the  
30 analysis.

31 (e) The complete text of each measure shall appear at the back  
32 of the pamphlet. The text of the measure shall contain the  
33 provisions of the proposed measure and the existing provisions of  
34 law repealed or revised by the measure. The provisions of the  
35 proposed measure differing from the existing provisions of law  
36 affected shall be distinguished in print, so as to facilitate  
37 comparison.

38 (f) The following statement shall be printed at the bottom of  
39 each page where arguments appear: "Arguments printed on this

page are the opinions of the authors, and have not been checked for accuracy by any official agency.”

SEC. 20. Section 13247 of the Elections Code is amended to read:

13247. (a) The statement of all measures submitted to the voters shall be abbreviated on the ballot in a ballot label as provided for in Section 9051. ~~The ballot label shall~~ *ballot. The statement shall contain not more than 75 words of each measure to be voted on, followed by the words, “Yes” and “No.” Abbreviation of measures to be voted on throughout the state shall be composed by the Legislative Analyst and shall be a condensed statement of the ballot title prepared by him or her.*

(b) *For purposes of measures to be voted on throughout the state, the limitation contained in subdivision (a) shall apply to the total number of words used in the condensed statement of the ballot title and the financial impact summary prepared pursuant to Section 9087 of this code and Section 88003 of the Government Code.*

SEC. 21. Section 13262 of the Elections Code is amended to read:

13262. (a) The ballot shall contain the same material as to candidates and measures, and shall be printed in the same order as provided for paper ballots, and may be arranged in parallel columns on one or more ballot cards as required, except that the column in which the voter marks his or her choices may be at the left of the names of candidates and the designation of measures.

(b) If there are a greater number of candidates for an office or for a party nomination for an office than the number whose names can be placed on one pair of facing ballot pages, a series of overlaying pages printed only on the same, single side shall be used, and the ballot shall be clearly marked to indicate that the list of candidates for the office is continued on the following page or pages. If the names of candidates for the office are not required to be rotated, they shall be rotated by groups of candidates in a manner so that the name of each candidate shall appear on each page of the ballot in approximately the same number of precincts as the names of all other candidates.

(c) Space shall be provided on the ballot or on a separate write-in ballot to permit voters to write in names not printed on the ballot when authorized by law. The size of the voting square and the

1 spacing of the material may be varied to suit the conditions  
2 imposed by the use of ballot cards, provided the size of the type  
3 is not reduced below the minimum size requirements set forth in  
4 Chapter 2 (commencing with Section 13100).

5 (d) The statement of measure submitted to the voters may be  
6 abbreviated if necessary on the ballot, ~~provided that if~~ each and  
7 every statement of measures on that ballot is abbreviated.  
8 Abbreviation of matters to be voted on throughout the state shall  
9 be composed by the ~~Attorney General~~ *Legislative Analyst*.

10 SEC. 22. Section 13282 of the Elections Code is amended to  
11 read:

12 13282. Whenever the ~~Attorney General~~ *Legislative Analyst*  
13 prepares a ballot label, the ~~Attorney General~~ *Legislative Analyst*  
14 shall file a copy of the ballot label with the Secretary of State. The  
15 Secretary of State shall make a copy of the ballot label available  
16 for public examination prior to the printing of the ballot label on  
17 any ballot. The public shall be permitted to examine the ballot  
18 label for at least 20 days, and the Secretary of State may  
19 consolidate the examination requirement under this section with  
20 the public examination requirements set forth in Section 9092. A  
21 voter may seek a writ of mandate requiring a ballot label, or portion  
22 thereof, to be amended or deleted. The provisions set forth in  
23 Section 9092 concerning the issuance of the writ and the nature  
24 of the proceedings shall be applicable to this section.

25 SEC. 23. Section 18602 of the Elections Code is amended to  
26 read:

27 18602. ~~Any~~ A person working for the proponent or proponents  
28 of a statewide initiative or referendum measure who covers or  
29 otherwise obscures the summary of the measure prepared by the  
30 ~~Attorney General~~ *Legislative Analyst* from the view of a  
31 prospective signer is guilty of a misdemeanor.

32 SEC. 24. Sections 1 to 23, inclusive, of this act shall become  
33 operative only if Assembly Constitutional Amendment 20 of the  
34 2009–10 Regular Session is approved by voters at a statewide  
35 general election.